

**AN ORDINANCE BY
COUNCILMEMBER FELICIA MOORE**

09-O-2055

AS SUBSTITUTED BY FINANCE/ EXECUTIVE COMMITTEE

AN ORDINANCE AUTHORIZING THE MAYOR ON BEHALF OF THE CITY TO TRANSFER APPROXIMATELY 6.0 ACRES OF PROPERTY LOCATED AT 1090 NORTH WEST LOIS STREET, TAX PARCEL NO. 17-0190-LL-021 (THE "PROPERTY"), TO THE ATLANTA DEVELOPMENT AUTHORITY FOR THE PURPOSE OF ALLOWING THE ATLANTA DEVELOPMENT AUTHORITY TO NEGOTIATE THE FURTHER TRANSFER OF THE PROPERTY TO THE ATLANTA INDEPENDENT SCHOOL SYSTEM FOR THE PURPOSE OF CREATING ATHLETIC AND RECREATIONAL FIELDS FOR THE USE OF THE ATLANTA PUBLIC SCHOOL SYSTEM AND THE PUBLIC; AND AUTHORIZING THE MAYOR ON BEHALF OF THE CITY TO ACCEPT REIMBURSEMENT FOR THE COST OF THE PROPERTY FROM ATLANTA BELTLINE, INC., WHERE SAID REIMBURSEMENT SHALL BE IN THE AMOUNT OF \$5,750,000.00 OR THE EQUIVALENT IN PROPERTY OR DEVELOPMENT ON OTHER PROPERTY OWNED BY ATLANTA BELTLINE, INC. FOR USE AS A PARK AND/OR RECREATIONAL FACILITY; AND WAIVING THE ATLANTA CODE OF ORDINANCES REAL ESTATE SECTION, CHAPTER 2, ARTICLE X, DIVISION 14, TO THE EXTENT THAT IT APPLIES TO THE TRANSACTION AUTHORIZED HEREIN; AND FOR OTHER PURPOSES .

WHEREAS, the City of Atlanta (the "City") acquired the Property in addition to other acreage from the Trust for Public Land for the purpose of expanding the proposed Westside Park Area on December 29, 2006. A copy of the legal description for the Property is attached hereto as Exhibit A; and

WHEREAS, the City desires to transfer the Property to the Atlanta Development Authority (the "ADA") to allow ADA to negotiate the further transfer of the property to Atlanta Independent School System, d/b/a the Atlanta Public School System ("APS") to satisfy the requirements of Section 11 of that certain Intergovernmental Agreement by and between the City, the Atlanta Development Authority, and APS dated December 31, 2005 as amended; and

WHEREAS, the City acquired the Property through the use of Park Improvement Bond money from the 1C53 (2005A Park Improvement Bond Fund) account; and

WHEREAS, ADA agrees that for so long as it retains ownership in the property and, upon transfer to APS, will require APS to agree that its use of the transferred Property will be in compliance with the City's originally intended use of the Property, and in compliance with the Park Improvement Bond requirements. Specifically, ADA and/or

APS will use the Property as athletic and recreational fields, and will permit use of the same by the public; and

WHEREAS, transferring the Property to ADA for negotiation of transfer to APS for use as athletic and recreational fields is consistent with the City's goal of greenspace preservation and expansion, particularly in areas that are located along the proposed BeltLine; and

THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA HEREBY ORDAINS, as follows:

SECTION 1: The Mayor of the City of Atlanta, on behalf of the City, is hereby authorized to facilitate the transfer to ADA of approximately 6.0 acres of property described above as the Property and described further in Exhibit A attached hereto.

SECTION 2: The transfer of the Property may not occur until a contract is executed by and between the City, ADA, and Atlanta BeltLine Inc. (the "Contract") which guarantees at a minimum that:

- A) Atlanta BeltLine Inc. ("ABI") shall reimburse the City the purchase cost of the Property expended by the City, specifically \$5,750,000.00 (the "Cost"), either through: monetary reimbursement; transfer to the City of new parks/recreational property whose fair market value is no less than the Cost; development of existing property for park/ recreational purposes, where such development is valued at no less than the Cost; or some combination of these three options. Where reimbursement of the Cost occurs at least in part by transfer of property or development of property, said property and/or development must not be part of the current schedule (at the time of the passage of this Ordinance) of Beltline properties to be purchased or developed. Should reimbursement take the form of purchase or development of property, ABI must identify the property by no later than 36 months from the date of the transfer of the Property to ADA. ABI's full reimbursement of the City must be complete by no later than 60 months from the date of the transfer of the Property to ADA.
- B) ADA shall agree to accept the Property in its "as is" condition, and will agree to hold the City harmless from any claims or damages arising from the Property.
- C) ADA will agree, and, upon further transfer to APS, will cause APS to agree, to use the Property in perpetuity for park and/or recreational purposes, including without limitation athletic and recreational fields, and the Property shall remain accessible to the public and open for public use without cost, with a schedule of public use availability to be determined semi-annually by mutual consent of ADA, for so long as ADA may own the property, and

thereafter by APS and the Commissioner of the Department of Parks, Recreation and Cultural Affairs or her/his designee.

- D) ADA will release the City of any obligations or responsibilities that the City has regarding the Property, including without limitation maintenance responsibility.
- E) The City will reserve a trail access easement through the greenbelt area of the Property, located in approximately four acres of the most western portion of the Property. The specific location of the trail easement will be determined by a survey performed on the site prior to the transfer of fee simple title to the Property.
- F) The 3.978 acres of land immediately adjacent to the Property and identified on Exhibit A hereto, shall be developed as parkland by ABI, and will become part of the Westside Park pursuant to a Development Agreement to be entered into by ABI and the City,

SECTION 2: The Atlanta Code of Ordinances Real Estate Section, Chapter 2, Article X, Division 14, does not address the transfer of City real property to another governmental entity, with reimbursement by a third party. Therefore any City Code requirements regarding sale or disposition of real property do not apply to this transaction. To the extent that this Code Section does apply, its requirements are hereby waived for the purpose of this transaction only.

SECTION 3: The Mayor, on behalf of the City, is authorized to execute any and all deeds, instruments or other documents that the Law Department deems to be necessary or advisable in order to carry into effect the intent of this ordinance, including without limitation the Contract.

SECTION 4: The City Attorney is hereby directed to prepare for execution by the Mayor, any and all deeds, instruments, or other documents that the City Attorney deems necessary or advisable to carry into effect the intent of this ordinance, including without limitation the Contract.

SECTION 5: Said deeds, instruments, or other documents, including without limitation the Contract, shall not become binding upon the City, and the City shall incur neither obligation nor liability thereunder, until the same has been signed by the Mayor, attested to by the Municipal Clerk, and approved as to form by the City Attorney.

SECTION 6: All ordinances and parts of ordinances in conflict herewith are hereby waived for purposes of this Ordinance only, and only to the extent of the conflict.

EXHIBIT A

The Property

AN ORDINANCE BY
COUNCILMEMBER *Felicia Moore*
FELICIA MOORE

AN ORDINANCE AUTHORIZING THE MAYOR ON BEHALF OF THE CITY TO TRANSFER APPROXIMATELY 6.0 ACRES OF PROPERTY LOCATED AT 1090 NORTH WEST LOIS STREET, TAX PARCEL NO. 17-0190-LL-021 (THE "PROPERTY"), TO THE ATLANTA INDEPENDANT SCHOOL SYSTEM FOR THE PURPOSE OF CREATING ATHELETIC AND RECREATIONAL FIELDS FOR THE USE OF THE ATLANTA PUBLIC SCHOOL SYSTEM AND THE PUBLIC; AND AUTHORIZING THE MAYOR ON BEHALF OF THE CITY TO ACCEPT REIMBURSEMENT FOR THE COST OF THE PROPERTY FROM ATLANTA BELTLINE, INC., WHERE SAID REIMBURSEMENT SHALL BE IN THE AMOUNT OF \$5,750,000.00 OR THE EQUIVALENT IN PROPERTY OR DEVELOPMENT ON OTHER PROPERTY OWNED BY ATLANTA BELTLINE, INC. FOR USE AS A PARK AND/OR RECREATIONAL FACILITY; AND WAIVING THE ATLANTA CODE OF ORDINANCES REAL ESTATE SECTION, CHAPTER 2, ARTICLE X, DIVISION 14, TO THE EXTENT THAT IT APPLIES TO THE TRANSACTION AUTHORIZED HEREIN; AND FOR OTHER PURPOSES .

WHEREAS, the City of Atlanta (the "City") acquired the Property in addition to other acreage from the Trust for Public Land for the purpose of expanding the proposed Westside Park Area on December 29, 2006. A copy of the legal description for the Property is attached hereto as Exhibit A; and

WHEREAS, the Atlanta Independent School System, d/b/a the Atlanta Public School System ("APS") desires to acquire the Property in accordance with Section 11 of that certain Intergovernmental Agreement by and between the City, the Atlanta Development Authority, and APS dated December 31, 2005 as amended; and

WHEREAS, the City acquired the Property through the use of Park Improvement Bond money from the 1C53 (2005A Park Improvement Bond Fund) account; and

WHEREAS, APS agrees that its use of the transferred Property will be in compliance with the City's originally intended use of the Property, and in compliance with the Park Improvement Bond requirements. Specifically, APS will use the Property as athletic and recreational fields, and will permit use of the same by the public; and

WHEREAS, transferring the Property to APS for use as athletic and recreational fields is consistent with the City's goal of greenspace preservation and expansion, particularly in areas that are located along the proposed BeltLine; and

THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA HEREBY ORDAINS, as follows:

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- A) Atlanta BeltLine Inc. ("ABI") shall reimburse the City the purchase cost of the Property expended by the City, specifically \$5,750,000.00 (the "Cost"), either through: monetary reimbursement; transfer to the City of new parks/recreational property whose fair market value is no less than the Cost; development of existing property for park/ recreational purposes, where such development is valued at no less than the Cost; or some combination of these three options. Where reimbursement of the Cost occurs at least in part by transfer of property or development of property, said property and/or development must not be part of the current schedule (at the time of the passage of this Ordinance) of Beltline properties to be purchased or developed. Should reimbursement take the form of purchase or development of property, ABI must identify the property by no later than 36 months from the date of the transfer of the Property to APS. ABI's full reimbursement of the City must be complete by no later than 60 months from the date of the transfer of the Property to APS.
- B) APS shall agree to accept the Property in its "as is" condition, and will agree to hold the City harmless from any claims or damages arising from the Property.
- C) APS will agree to use the Property in perpetuity for park and/or recreational purposes, including without limitation athletic and recreational fields, and the Property shall remain accessible to the public and open for public use without cost, with a schedule of public use availability to be determined semi-annually by mutual consent of APS and the Commissioner of the Department of Parks, Recreation and Cultural Affairs or her/his designee.
- D) APS will release the City of any obligations or responsibilities that the City has regarding the Property, including without limitation maintenance responsibility.
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SECTION 5: Said deeds, instruments, or other documents, including without limitation the Contract, shall not become binding upon the City, and the City shall incur neither obligation nor liability thereunder, until the same has been signed by the Mayor, attested to by the Municipal Clerk, and approved as to form by the City Attorney.

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